

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.203 of 2012

(Through Video Conferencing)

1.N.Meena Bai

2.N.Satyanarayanan (Minor)

3.N.Tejaswini (Minor) ... Appellants/Petitioner
(Minor rep by Mother and natural
guardian the First Appellant herein)

Vs.

1.K.James Rajan

2.The Oriental Insurance Company Limited,
Bali Towers, 4th Floor,
No.1, Abdul Razack Street,
Saidapet, Chennai - 15.
(Now operating from New.No.216, Old No.115,
Prakasam Salai, Broadway, Chennai - 108.)

3.A.Natarajan

4.United India Insurance Company Limited,
No.44, GST Road, Guindy,
Chennai - 32.
(Now operating from Silingi Buildings, No.134,
Greams Road, Chennai - 6.) ... Respondents/Respondents

(R-1 & R-3 exparte in Lower Court)

Civil Miscellaneous Appeal filed under Section 173 of
Motor Vehicles Act, 1988, against the Judgment and Decree
dated 09.12.2010 in M.C.O.P.No.358 of 2007 on the file of the
Motor Accidents Claims Tribunal, Chief Judge, Court of Small
Causes, Chennai.

For Appellants : Mr.S.Gangaram Prasad

For 2nd Respondent : Mr.K.Vinod

For 4th Respondent : Mr.S.Arunkumar

For R1 & R3 : Exparte

J U D G M E N T

With the consent of the learned counsel for the appellants, the learned counsel for the 2nd respondent and the learned counsel for the 4th respondent, this Civil Miscellaneous Appeal is taken up for hearing

2. The claimants are the appellants in this appeal. They are aggrieved by the impugned Judgment and Decree dated 09.12.2010 passed by the Motor Accidents Claims Tribunal, (Small Causes Court, Chennai), Chennai in M.C.O.P.No.358 of 2007.

3. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.20,85,000/- as compensation together with interest at 7.5% per annum from the date of the claim petition till the date of the deposit to the appellants/claimants under the following heads:-

Heads	Amount
Loss of pecuniary benefits on account of death	Rs.20,60,800/-
Loss of consortium to the 1 st appellant	Rs. 10,000/-
Loss of Love and Affection and Mental Agony	Rs. 10,000/-
Transportation to Hospital & Funeral Expenses	Rs. 4,200/-
Total	Rs.20,85,000/-

4. While awarding the aforesaid amount of compensation, the Tribunal has apportioned the compensation payable by the respective Insurance Companies equally, namely, the 2nd and the 4th respondents herein.

5. In this appeal, the appellants have sought for enhancement of compensation by another sum of Rs.10,00,000/- in the decision of the Hon'ble Supreme Court in Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 12. Now further submission is made in the light of the Hon'ble Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and Others, (2017) 16 SCC 680 and in Magma General Insurance Company Limited Vs. Nanuram @ Chuhru Ram and Others, (2018) 18 SCC 130 : 2018 OnLine SC 1546.

6. I have considered the arguments advanced on behalf of the appellants, both Insurance Companies, namely 2nd and the 4th respondents. The appellants are entitled to an enhanced compensation as wrong multiplier was adopted contrary to the decision of the Hon'ble Supreme Court in Sarla Verma (Smt)'s case (supra).

7. Compensation to be awarded to the appellants/claimants also has to be enhanced as per the decisions of the Hon'ble Supreme Court in Pranay Sethi and Others's case (supra), in Magma General Insurance Company Limited's case (supra) on account of future prospectus and towards loss of consortium and loss of parental consortium. There has to be an deduction towards income tax.

8. Therefore, the amount of compensation to be awarded towards the loss of dependency of the deceased is enhanced as follows:-

Monthly Income of the deceased	: Rs.23,000/-
Add: Future prospectus 25%	
(23,000 x 25/100)	: Rs. 5,750/-

	: Rs.28,750/-
Annual Income (28,750 x 12)	: Rs.3,45,000/-
Less: Income Tax *	: Rs. 50,000/-

	: Rs.2,95,000/-
Less: Personal Expenses 1/3 th	
(2,95,000 x 1/3)	: Rs. 98,333/-

	: Rs.1,96,667/-
Multiplier - 14 (1,96,667 x 14)	: Rs.27,53,338/-

* Slab of Income Tax of Rs.3,45,000/-			
	Up	to	Rs.1,35,000
- Nil			
	Rs.1,35,000	to Rs.1,50,000	(10%) (15,000 x 10/100)
- Rs. 1,500/-			
	Rs.1,50,000	to Rs.2,50,000	(20%) (1,00,000 x 20/100)
- Rs.20,000/-			
	Rs.2,50,000	to Rs.3,45,000	(30%) (95,000 x 30/100)
- Rs.28,500/-			
-----			Total
- Rs.50,000/-			

9. Therefore, the compensation of Rs.20,85,000/- awarded by the Tribunal is enhanced to Rs.29,05,000/- as follows:-

Heads	Re-quantified amount of this Court
Loss of dependency	Rs.27,53,338/-
Loss of consortium to the 1 st appellant	Rs. 40,000/-
Loss of Love and Affection to the 2 nd and the 3 rd appellants (40,000 x 2)	Rs. 80,000/-
Funeral and Transport to Hospital Expenses	Rs. 15,000/-
Loss of Estate	Rs. 15,000/-
Total	Rs.29,03,338/- rounded off to Rs.29,05,000/-

10. Therefore, both Insurance Companies, i.e., 2nd and the 4th respondents are directed to deposit 50% of Rs.29,05,000/- each together with interest at 7.5% per annum from the date of the claim petition till the date of deposit thereon, less any amount already deposited in the respective proportion awarded by the Tribunal, within a period of six weeks from the date of receipt of a copy of this Judgment.

11. On such deposit, the appellants are entitled to receive the compensation in the same proportion ordered by the Tribunal. The 1st appellant is permitted to withdraw her share together with interest and costs, less any amount already

withdrawn, by filing suitable applications before the Tribunal.

12. It is noticed that the 2nd and 3rd appellants were aged about 12 and 6 years respectively at the time of filing of the claim petition and therefore they would have been attained the age of majority. Therefore, 2nd and 3rd appellants are permitted to file suitable application before the Tribunal for recording the age of majority. The Tribunal may thereafter permit the 2nd and the 3rd appellants to withdraw their shares together with interest.

13. Accordingly, this Civil Miscellaneous Appeal is allowed. No cost.

Sd/-
Assistant Registrar(CS-II)

//True copy//

Sub Assistant Registrar

jen

To:

1. The Motor Accidents Claims Tribunal,
Chief Judge, Court of Small Causes,
Chennai.
2. The Section Officer,
VR Section, High Court, Madras.

+1cc to Mr.G.Balaji Prasad, Advocate SR.No.31184

C.M.A.No.203 of 2012

GMV (27/04/2021)

WEB COPY